

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of the Petition of Dalia Genger, as  
Trustee of the Orly Genger 1993 Trust, Created by  
Trust Agreement Dated December 13, 1993 between  
ARIE GINGER, as Grantor, and LAWRENCE M.  
SMALL and SASH A. SPENCER, as Trustees, to  
Turnover Property to the Orly Genger 1993 Trust.

File No.: 2008-0017/E

Surrogate Nora S. Anderson

Dalia Genger, Trustee of the Orly Genger 1993 Trust,

Petitioner,

-against-

Orly Genger, et al.,

Respondents.

**AFFIRMATION OF LEON FRIEDMAN IN SUPPORT OF MOTION TO DISMISS  
BY RESPONDENT ARIE GINGER**

LEON FRIEDMAN, an attorney duly admitted to practice in the courts of the state of  
New York, affirms the following under penalties of perjury:

1. I am the attorney for respondent Arie Genger. I make this affirmation in support  
of a motion to dismiss the pending petition (the "New Action") brought by Petitioner Dalia  
Genger.

2. Arie Genger is in precisely the same position in this matter as Respondent Orly  
Genger who has submitted a parallel motion to dismiss. As noted in the parallel papers, in  
December, 2017, Dalia attempted to serve various parties with documents relating to a  
purportedly new action. The only papers actually served on Arie Genger at this time was a two  
page document entitled "Miscellaneous Citation." (Attached as Exhibit A.) That document was  
sent to a former address of Arie Genger, namely 17001 Collins Avenue, Sunny Island Beach

Florida. (See Exhibit B). . It was then forwarded to the new address, 19111 Collins Avenue, as regular mail, and received on January 12, 2018. No petition actually accompanied the two page document.

3. In every other respect, Arie Genger is in precisely the same position as his daughter Orly Genger.as described in her moving papers. Arie Genger hereby incorporates and adopts all of the arguments made by Orly Genger in her filing before this Court in this matter in support of a motion to dismiss..

4. For the reasons stated above, Respondent Arie Genger moves that the pending New Action be dismissed.

Affirmed under penalties of perjury.

Dated: New York, N.Y.  
February 4, 2018

  
Leon Friedman  
685 Third Ave, 25<sup>th</sup> floor  
New York, N.Y. 10017  
(646) 825-4398  
Attorney for Respondent Arie Genger

## **EXHIBIT A**

Miscellaneous Citation

File No. 2008-0017 / E

**SURROGATE'S COURT NEW YORK COUNTY**

*Citation*

THE PEOPLE OF THE STATE OF NEW YORK

TO:  
ORLY GENDER,  
ARIE GENDER,  
GLENCOVA INVESTMENT COMPANY,  
TR INVESTORS, LLC,  
NEW TR EQUITY I, LLC,  
NEW TR EQUITY II, LLC,  
TRANS-RESOURCES, INC.,  
ARNOLD BROSER,  
DAVID BROSER,  
SAGI GENDER 1993 TRUST

A petition having been filed by Dalia Genger, who is domiciled at 200 E. 65<sup>th</sup> Street, in the City of New York, County of New York and State of New York,

YOU ARE HEREBY CITED TO SHOW CAUSE before the Surrogate's Court, New York County, at 31 Chamber Street, Room 509, New York, New York on

February 6, 2018 at 10 o'clock in the forenoon of that day, why a decree should not be made ~~concerning the Orly Genger 1993 Trust created by Trust Agreement, dated December 13, 1993 between Arie Genger, as Grantor and Lawrence M. Suss and Seth A. Spence as Trustees, of the Orly Genger 1993 Trust~~ concerning the Orly Genger 1993 Trust created by Trust Agreement, dated December 13, 1993 between Arie Genger, as Grantor and Lawrence M. Suss and Seth A. Spence as Trustees, granting the following relief as requested in the petition

- a. damages in in the amount of \$32.5 million, plus statutory interest;
- b. imposition of a constructive trust on the Settlement Proceeds;
- c. an order directing the delivery of the Settlement Proceeds to her as Trustee;
- d. an accounting of the Settlement Proceeds; and

e. such other relief as to the Court seems just and necessary.

Dated, Attested and Sealed.

December 21, 2017

Hon. Nora S. Anderson, Surrogate

Diana Senabria Chief Clerk

JUDITH BACHMAN, ESQ.  
254 S. Main Street, Suite 306  
New City, New York 10956  
(845) 639-3210  
jlbesq\_99@yahoo.com  
*Attorneys for Petitioner Dalia Genger*

[Note: This citation is served upon you as required by law. You are not required to appear. If you fail to appear it will be assumed you do not object to the relief requested. You have a right to have an attorney appear for you.]

**PROOF OF SERVICE MUST BE FILED  
TWO DAYS PRIOR TO THE RETURN DATE**  
Court Rule 207.7 (c)

## **EXHIBIT B**

JUDITH LISA BACHMAN, ESQ  
254 SOUTH MAIN STREET, STE. 406  
NEW CITY, NY 10956

ARIE GINGER  
17001 COLLINS AVENUE  
SUNNY ISLAND, NY 11586

PERSONAL AND CONFIDENTIAL

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Genger 1993 Trust, to Turnover Property to the Orly Genger 1992 Trust

Dalia Genger, Trustee of the Orly Genger 1993 Trust  
Petitioner

-against-

Orly Genger, et al

Respondents

MOTION TO DISMISS

LEON FRIEDMAN

Attorney for Respondent Arie Genger

685 THIRD AVENUE, 25TH FLOOR  
NEW YORK, NEW YORK 10017  
(646) 825-4398

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: Signature

Print Signer’s Name

Service of a copy of the within is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box ☐ that the within is a (certified) true copy of a  
NOTICE OF ENTRY entered in the office of the clerk of the within-named Court on 20  
☐ that an Order of which the within is a true copy will be presented for settlement to the  
NOTICE OF SETTLEMENT Hon. , one of the judges of the within-named Court,  
at  
on 20 , at M.

Dated:

LEON FRIEDMAN

Attorney for

To: 685 THIRD AVENUE, 25TH FLOOR  
NEW YORK, NEW YORK 10017  
(646) 825-4398

Attorney(s) for